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12 UNITED STATES DISTRICT COURT
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14 DISTRICT OF NEVADA

15 LETITIA WAHLBERG, an Individual,
16
17 Plaintiff,
18
19 vs.
20 NV ENERGY, a public utility,
Defendant.

Case No. 2:19-cv-01494-GMN-BNW

**STIPULATION AND PROPOSED ORDER
TO STAY DISCOVERY**

21 Defendant NV Energy, Inc. (“Defendant”) and Plaintiff Letitia Wahlberg (“Plaintiff”), by and
22 through their respective counsel, do hereby stipulate to and request that the Court grant a stay in
23 discovery until the Court has ruled on Defendant’s Motion to Dismiss [ECF No. 7].

24 The parties request a temporary stay with any duplicative and/or over-expansive discovery that
25 may result if discovery is to continue at this point prior to clarification on the pleadings. Specifically,
26 the parties require a ruling on Defendant’s Motion to Dismiss [ECF No. 7] to know what claims may
27 exist at this stage of the litigation and in order to evaluate what additional discovery, if any, is
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1 necessary. For example, the parties cannot meaningful depose any witnesses without knowing what
2 claims are and/or are not part of this lawsuit.

3 Courts have broad discretionary power to control discovery including the decision to allow or
4 deny discovery. *See e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In evaluating the
5 propriety of an order staying or limiting discovery while a dispositive motion is pending, the court
6 considers the goal of Federal Rule of Civil Procedure 1, which provides that the Rules should “be
7 construed, administered, and employed by the court and the parties to secure the just, speedy and
8 inexpensive determination of every action.” With Rule 1 as its prime directive, the court must decide
9 whether it is more just to speed the parties along in discovery while a dispositive motion is pending or
10 to delay discovery to accomplish the inexpensive determination of the case. *See Turner Broadcasting*
11 *System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997); *see also Twin City Fire Ins. v.*
12 *Employers Insurance of Wausau*, 124 F.R.D. 652, 653 (D. Nev. 1989).

13 Further, in assessing a request to stay discovery, the court takes a “preliminary peek” at the
14 merits of the dispositive motion. *Tradebay, LLC v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011).
15 This “preliminary peek” does not prejudice the outcome of the motion; it merely evaluates whether an
16 order staying discovery is warranted. *Id.* Common examples of situations in which good cause has
17 been found to stay discovery are when jurisdiction, venue or immunity are preliminary issues. *Id.*
18 Ultimately, the party seeking the stay “carries the heavy burden of making a strong showing why
19 discovery should be denied.” *Id.* (citing *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir.
20 1975)).

21 Defendant’s Motion to Dismiss warrants a stay in discovery. First, the Motion is potentially
22 dispositive of the entire case as it requests dismissal with prejudice of all of Plaintiff’s claims.
23 Defendant argues that Plaintiff’s sex and age discrimination claims, and her constructive discharge
24 and retaliation claims are not plausibly alleged and should be dismissed. Defendant also argues that
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1 Plaintiff should not be allowed to amend her Complaint or claims. Except for her national origin
2 discrimination claim, which she agrees should be dismissed with prejudice, Plaintiff disputes the legal
3 arguments made in Defendant's Motion and has filed an Opposition. However, the parties agree that
4 Defendant's Motion is the type warranting a stay of discovery.

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6 Second, neither party will suffer hardship or inequity as a result of stay because further
7 discovery is unjustified at this point. Since Defendant has moved to dismiss the entire case, Plaintiff
8 has not been apprised of which factual allegations Defendant intends to admit and which factual
9 allegations Defendant intends to deny. Nor has Plaintiff been apprised of the defenses that Defendant
10 intends to assert. Plaintiff believes this would severely limit her opportunity to conduct full discovery
11 while the motion is pending. The parties agree that discovery is not necessary prior to the Court's
12 resolution of the legal issues raised by the Motion to Dismiss. Accordingly, requiring the parties to
13 conduct discovery on claims that may not be properly before the Court would result in an unnecessary
14 expenditure of resources and is particularly prejudicial to Defendant.

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16 Third, similar to the situation in *Little*, this is a case where a temporary stay of discovery will
17 further the goals of judicial economy, control of the Court's docket, and an inexpensive determination
18 of the case. 863 F.2d 681. Ordering the parties to proceed with discovery could potentially clog the
19 Court's docket with discovery disputes on claims that may be dismissed.

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21 The requested stay is only to extend the discovery and remaining case deadlines and not to any
22 briefing or hearings currently on file or scheduled with the Court, including, but not limited to,
23 Defendant's Motion to Dismiss [ECF No. 7] and the Early Neutral Evaluation session scheduled for
24 December 16, 2019 [ECF No. 11]. The parties maintain their arguments with respect to the motion to
25 dismiss. Accordingly, the parties have made the strong showing necessary to support their joint
26 request to stay discovery. For the reasons articulated above, the Court should stay discovery until an
27 Order has been issued on Defendant's Motion to Dismiss. If Plaintiff's claims survive, then the parties
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1 will submit its Discovery Plan and Scheduling Order at such future date to be ordered by the Court.

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3 DATED: November 19, 2019

/s/ Roger L. Grandgenett, Esq.

KARYN N. TAYLOR, ESQ.
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Attorneys for Defendant, NV ENERGY

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6 DATED: November 19, 2019

/s/ Jenny L. Foley, Esq.

JENNY L. FOLEY, ESQ.
MARTA D. KURSHUMOVA, ESQ.
Attorneys for Plaintiff, LETITIA WAHLBERG

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8 **ORDER**

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10 IT IS SO ORDERED this 2nd day of December, 2019.

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13 UNITED STATES MAGISTRATE JUDGE